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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,800	01/05/2001	Kenny A. Sexton	8127-3	5283

4678 7590 02/28/2002

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EXAMINER

RESTIFO, JEFFREY J

ART UNIT PAPER NUMBER

3619

DATE MAILED: 02/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/755,800

Applicant(s)

LEEDS ET AL.

Examiner

Jeffrey J. Restifo

Art Unit

3619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hershberger(5,037,117) and further in view of Pinto et al.(5,899,469).

With respect to claims 1-3, 7, and 9, Hershberger discloses a cart 10 for supporting folded tables 14, said cart having a base frame 16 having an upper table receiving bed 18 with a plurality guide notches 26 defining a plurality of table edge holding notches, a steep sloped, tipped table support 42, and a handle 62, as shown in figure 1. Hershberger does not disclose the base frame as being a box frame with opposed side and end members and having a height greater than 15 inches. Pinto does disclose a cart comprising a box frame 22 having opposed side and end members 1a,1b, and a height greater than 15 inches, as shown in figure 1. It would have been obvious to one having ordinary skill in the art at the same time the invention was made to have given the cart, as taught by Hershberger, a box frame, as taught by Pinto et al., in order to raise the height of the cart and reduce the distance a user must bend over to load the cart.

With respect to claims 4-6, it would be obvious to alter the exact dimensions of the cart in order to accommodate tables of different shapes and sizes and therefore It

would have been obvious to one having ordinary skill in the art at the same time the invention was made to have adjusted the dimensions of the cart, as taught by Hershberger and modified by Pinto et al., in order to accommodate tables of different shapes and sizes.

With respect to claim 8, the spaced arms of Hershberger appear to be approximately 80 degrees from the horizontal plane.

3. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hershberger and Pinto et al., as applied to claim 1 above, and further in view of Wood(2,947,565).

Hershberger does not disclose a support surface comprised of a plurality of slats forming a plurality of table edge holding channels. Wood does disclose a cart 10 comprising a support surface having a plurality of slats 14 forming a plurality of table edge holding channels 25, as shown in figure 1. It would have been obvious to one having ordinary skill in the art at the same time the invention was made to have given the cart, as taught by Hershberger, the support surface, as taught by Wood, in order to distribute the load across the entire width of the cart.

Response to Arguments

4. Applicant's arguments filed 12/17/01 have been fully considered but they are not persuasive. With respect to the applicant's arguments concerning the height of the cart, simply adjusting the height of the cart in order to accommodate a certain size table is not patentable unless it produces an unexpected result, see In re Rose, 105 USPQ 237

(CCPA 1955), further, the tables are an intended use and their dimensions relative to the cart have been given little patentable weight.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Skinner discloses a similar cart for loading tables.
6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

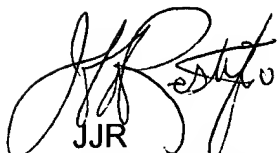
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey J. Restifo whose telephone number is (703) 305-0579. The examiner can normally be reached on M-F (9:00-5:00), alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-2571 for regular communications and (703) 308-2571 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Jeffrey J. Restifo
Examiner
Art Unit 3619


JJR
February 22, 2002

LANNA MAI
SUPERVISORY PATENT EXAMINER
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